

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE
2005 FEB 10 P 3:56
U.S. DISTRICT COURT
DISTRICT OF MASS.

05 - 10279 GAO

QSL CORPORATION d/b/a WAXCESSORIES)
and CKQ DESIGNS, INC.,)

Plaintiffs,)

v.)

THE ENCORE GROUP, INC. and)
STANLEY PAPEL d/b/a PAPEL DESIGNS)
and PAPEL GIFTWARE,)

Defendants.)

Civil Action No.

AMOUNT 250
SUMMONS ISSUED 4
LOCAL RULE 4.1 1
WAIVER FORM 1
MCF ISSUED 1
DATE 2/10/05

COMPLAINT AND JURY DEMAND

Plaintiffs QSL CORPORATION d/b/a WAXCESSORIES and CKQ DESIGNS, INC., by their undersigned attorneys, by way of Complaint herein, allege as follows:

1. Plaintiff QSL CORPORATION d/b/a WAXCESSORIES is a Massachusetts corporation having a place of business at 20 Commercial Drive, Dracut, Massachusetts 01826.

2. Plaintiff CKQ DESIGNS, INC. is a Massachusetts corporation having a place of business at 20 Commercial Drive, Dracut, Massachusetts 01826.

3. On information and belief, Defendant THE ENCORE GROUP, INC. is a California corporation. It has a place of business at Route 111

Cloverleaf Drive, Winston Salem, North Carolina 27103 and is doing business in this judicial district.

4. On information and belief, Defendant STANELY PAPEL is a California citizen having a place of business at 373 South Monte Vista Drive, Suite #C, Palm Springs, California 92262, and doing business as PAPEL DESIGNS and as PAPEL GIFTWARE, including doing business in this judicial district.

5. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 in that the Complaint sets forth a count for patent infringement under Title 35 of the United States Code.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400.

7. Plaintiff QSL CORPORATION d/b/a WAXCESSORIES is the exclusive licensee, and Plaintiff CKQ Designs, Inc. is the assignee, of U.S. Patent No. 501, 205 entitled "Holder/Charging Stand for a Mobile Phone or the Like," which Patent duly issued on January 25, 2005 (the "'205 patent"). A true copy of the '205 Patent is attached hereto as Exhibit A.

8. Plaintiffs have the exclusive rights to make, use, offer for sale, and sell mobile phone holders and/or charging stands embodying the invention of the '205 Patent.

9. On information and belief, Defendants have been and are making, using, offering for sale, and selling, mobile phone holders

and/or charging stands embodying the invention of the '205 Patent, without authorization from Plaintiffs.

10. The aforesaid actions of Defendants constitute an infringement of the '205 Patent under 35 U.S.C. § 271.

11. Defendants have been on notice of the issuance of the '205 patent since at least as early as February 2, 2005, and have continued to infringe the patent despite receiving such notice, in willful and flagrant disregard of Plaintiffs' rights under the '205 patent.

WHEREFORE, Plaintiffs QSL CORPORATION d/b/a WAXCESSORIES and CKQ DESIGNS, INC. demand judgment as follows against each of the Defendants:

A. That this court preliminarily and permanently enjoin Defendants, and each of them, from the manufacture, use, offer for sale, and sale of products that infringe the '205 Patent.

B. That Defendants provide an accounting for damages regarding their manufacture, use, offer for sale, and sale of the infringing products.

C. That Plaintiffs be awarded damages adequate to compensate for the infringement, but in no event less than a reasonable royalty, together with interest and costs.

D. That Plaintiffs be awarded treble damages for intentional, willful, and wanton violation of Plaintiffs' patent rights, as well as prejudgment interest and Plaintiffs' costs, expenses, and

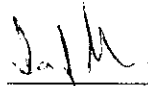
attorneys' fees in this action, as authorized by 35 U.S.C. §§ 284 and 285.

E. That this Court grant such other order and further relief as it deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b), Fed. R. Civ. P., Plaintiffs hereby demands trial by jury of all issues so triable.

QSL CORPORATION d/b/a WAXCESSORIES



John L. Welch BBO No. 522,040
Ian J. McLoughlin BBO No. 647,203
FOLEY HOAG LLP
155 Seaport Boulevard
Boston, MA 02210
617/832-1000

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) OSL CORPORATION d/b/a WAXCESSORIES and CKQ DESIGNS, INC.

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

- ☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ☒ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950 *Also complete AO 120 or 121 for patent, trademark or copyright cases
- ☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(E)).

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT? YES ☐ NO ☒

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC 2403) YES ☐ NO ☒
IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY? YES ☐ NO ☐

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC 2284? YES ☐ NO ☒

7. DO ALL PARTIES IN THIS ACTION RESIDE IN THE CENTRAL SECTION OF THE DISTRICT OF MASSACHUSETTS (WORCESTER COUNTY) - (SEE LOCAL RULE 40.1(C)) YES ☐ NO ☒

OR IN THE WESTERN SECTION (BERKSHIRE, FRANKLIN, HAMPDEN OR HAMPSHIRE COUNTIES)? (SEE LOCAL RULE 40.1(D)) YES ☐ NO ☒

8. DO ALL OF THE PARTIES RESIDING IN MASSACHUSETTS RESIDE IN THE CENTRAL AND/OR WESTERN SECTIONS OF THE DISTRICT? YES ☐ NO ☒

(a) IF YES, IN WHICH SECTION DOES THE PLAINTIFF RESIDE? _____

9. IN WHICH SECTION DO THE ONLY PARTIES RESIDING IN MASSACHUSETTS RESIDE? EASTERN

10. IF ANY OF THE PARTIES ARE THE UNITED STATES, COMMONWEALTH OF MASSACHUSETTS, OR ANY GOVERNMENTAL AGENCY OF THE U.S.A. OR THE COMMONWEALTH, DO ALL OTHER PARTIES RESIDE IN THE

CENTRAL SECTION; YES ☐ NO ☐ OR WESTERN SECTION; YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME John L. Welch and Ian J. McLoughlin

ADDRESS Foley Hoag LLP, 155 Seaport Boulevard, Boston, MA 02210-2600

TELEPHONE NO (617) 832-1000

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
QSL CORPORATION d/b/a WAXCESSORIES and
CKQ DESIGNS, INC.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Middlesex

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
John L. Welch and Ian J. McLoughlin
Foley Hoag LLP
155 Seaport Boulevard, Boston, MA 02210-2600
617-832-1000

DEFENDANTS IN CLERKS OFFICE
THE ENCORE CROUP, INC. and STANLEY PAPEL
d/b/a PAPEL DESIGNS and PAPEL GIFTWARE

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. GOVERNMENT Plaintiff
☐ 2 U.S. GOVERNMENT Defendant
☒ 3 FEDERAL QUESTION (US Government Not a Party)
☐ 4 DIVERSITY (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury Medical Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth In Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395 ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DAWC, DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commercial/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Plaintiffs allege that Defendants have infringed their patent and rights under 35 U.S.C. § 271.

VII. REQUESTED IN COMPLAINT: <input type="checkbox"/> UNDER F.R.C.P. 23	CHECK IF THIS IS A CLASS ACTION	CHECK YES only if demanded in complaint:
VIII. RELATED CASE(S) IF ANY	(See Instructions):	JURY DEMAND: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
DATE	JUDGE	DOCKET NUMBER
SIGNATURE OF ATTORNEY OF RECORD		

FOR OFFICE USE ONLY

RECEIPT# _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG JUDGE _____